



Department of Planning, Housing, & Community Development

Mayor, Matthew T. Ryan
Director, Tarik Abdelazim

STAFF REPORT

TO: Zoning Board of Appeals Members
FROM: Planning, Housing and Community Development
DATE: June 24, 2013
SUBJECT: 11 Main Street; Area Variance
TM ID #: 160.50-1-53
CASE: 2013-17
COPIES: T. Abdelazim, A. Sosa, T. Costello, T. Renia, Applicant, File

A. VARIANCE REQUESTED

This application would provide for the establishment of a restaurant within an existing vacant storefront. While the restaurant is permitted by right, the site does not have, nor can it accommodate, off-street parking as required for this use. The Zoning Code requires 1 parking space per each 3 seats and 1 space per each 2 employees for a restaurant. The proposed restaurant, with a minimum of 11 seats and up to 10 employees, would therefore be required to provide a minimum of 9 parking spaces. Therefore, an Area Variance for parking is required.

In granting an area variance, the Zoning Board of Appeals must weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

- (a). **Undesirable change**: Whether an undesirable change will be produced in the character of the neighborhood, or whether a detriment to nearby properties will be created;
- (b). **Reasonable alternative**: Whether the Applicant can achieve his goals via a reasonable alternative that does not involve the necessity of an area variance;
- (c). **Substantial request**: Whether the variance requested is substantial;
- (d). **Physical and Environmental Conditions**: Whether the requested variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district;
- (e). **Self-created hardship**: Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall

deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

B. ADDITIONAL REVIEWS

The proposed use is eligible for a Series A Site Plan exception review. An application for this review has been submitted and will be reviewed by staff pending the decision of the Zoning Board of Appeals.

C. SITE REVIEW

The site is located on the south side of Main Street between Front Street and the Susquehanna River. The site is improved with a two story building which is currently vacant.

Land uses in the vicinity of the subject properties consist of a mixture of commercial and institutional.

D. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

21 Main Street: In 2013, the Zoning Board of Appeals granted an area variance for off-street parking for a restaurant.

96 Front Street: In 2010, the Zoning Board of Appeals granted an area variance for off-street parking for a restaurant (Thai Time).

44 Main Street – In 1988, the Broome County Health Department was granted a Special Use Permit to use the basement of Trinity Memorial Church as a clinic and day care center.

52 Main Street - In 1982, a request by Anthony Mincolla to operate an arcade was granted by the Planning Commission.

55 Main Street - An area variance of off-street parking requirements was granted in 1990 by the Zoning Board of Appeals to allow the conversion of an existing building for use as an apartment, medical office, and a professional office.

57 Main Street - In 1989, the Zoning Board of Appeals granted an area variance of off-street parking requirements to allow the reconstruction of a restaurant following a fire.

E. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **Unlisted** Action. The Zoning Board of Appeals may be the lead agency to determine any environmental significance.

1. Motion to determine what type of action:
 - a. Type I
 - b. Type II
 - c. **Unlisted**
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing Determination of Significance based on:

Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?	Aesthetic, agricultural, archaeological, historic or other natural or cultural resources; or community or neighborhood character?	Vegetation of fauna, fish, shellfish, or wildlife species, significant habitats, or threatened or endangered species?	A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?	Growth, subsequent development, or related activities likely to be induced by the proposed action?	Long term, short term, cumulative, or other effects not identified in C-1-C5?	Other impacts (including changes in use of either quantity or type of energy)?
X	X		X	X	X	X

F. STAFF FINDINGS

Planning Staff has the following findings:

1. The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.

There are a number of vacant storefronts, including the subject tenant space, within the area. Approval of this parking variance would allow the establishment of a new restaurant, which could spur further commercial investment along Main and Front Streets.

2. The Zoning Board of Appeals must determine if there are any reasonable alternatives to the proposed variance.

Any use of this building would require an area variance for parking. Therefore, no reasonable alternative exists.

3. The Zoning Board of Appeals must determine if the requested variance is considered substantial.

Although a variance for 14 parking spaces could be considered substantial the area has available on-street parking which would absorb parking for the proposed restaurant. Further,

3. The Zoning Board of Appeals must determine whether the alleged difficulty was self created.

The subject building pre-dates the 1965 adoption of the Zoning Code. Therefore, a practical difficulty in meeting parking regulations which were established after the building was erected exists. Further, the proposed commercial use is consistent with the historical uses of the subject structure. The difficulty was therefore not self-created because a variance would be required to utilize the site for any use.

I. ENCLOSURES

Enclosed are copies of the site plan, site photographs, and the application.

Prepared by:

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